

## **REMARKS**

The Office Action dated September 15, 2008, has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

### **Status of the Claims**

Claims 1-4, 6 and 7 have been amended to more particularly point out and distinctly claim the subject matter of the invention. No new matter has been added. Claims 1-4, 6 and 7 are currently pending in the application and are respectfully submitted for consideration.

### **Rejection under 35 U.S.C. § 112**

Claims 1-7 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. More specifically, the Office Action alleged on page 2 that means-plus-function treatment “requires that applicant clearly identify particular structures or steps within the disclosure as means or steps that applicant intends to claim. No such clear identification has been found, rendering the claim indefinite.” Applicants respectfully note that claim 5 was previously cancelled and thus, the rejection of claim 5 is moot. With respect to claims 1-4, 6 and 7, Applicants respectfully traverse the rejection.

While the Office Action alleged that Applicants must “clearly identify particular structures or steps within the disclosure as means or steps that applicant intends to claim”, this is not the standard for compliance with 35 U.S.C. § 112, second paragraph. MPEP § 2181(II) states that:

“If one employs means plus function language in a claim, one must set forth in the specification **an adequate disclosure** showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112.” *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ2d 1845, 1850 (Fed. Cir. 1994) (in banc).

(Emphasis added). As such, under U.S. law, all that is required is that adequate disclosure be present in the specification. To determine whether this standard has been met, the following test is applied:

The proper test for meeting the definiteness requirement is that the corresponding structure (or material or acts) of a means (or step)-plus-function limitation must be disclosed in the specification itself in a way that **one skilled in the art will understand what structure (or material or acts) will perform the recited function**. See *Atmel Corp. v. Information Storage Devices, Inc.*, 198 F.3d 1374, 1381, 53 USPQ2d 1225, 1230 (Fed. Cir. 1999).

(MPEP § 2181(II), emphasis added).

In the present case, independent claim 1 recites “storage means”, “first ordering means”, “required quantity determination means”, “correction means” and “second ordering means”. By looking at the functions performed by each means, Applicants respectfully submit that a person of ordinary skill in the art could readily determine which structure or steps may correspond with each recited means. As can clearly be seen from Fig. 1 and the associated description thereof on page 6, line 16, through page 8, line 18, of the present application, the various means are explicitly discussed. As illustrated in Fig. 1, the “first ordering means” 13, “required quantity determination means” 12, “correction means” 14 and “second ordering means” 15 may be components of an order

management system running on order management terminal 10. Thus, in some embodiments, these means may be implemented via software, together with suitable hardware such as a terminal as described at page 8, lines 15-18, of the present application.

With respect to the storage means, page 8, lines 15-18, of the present specification discusses that in some embodiments, “[t]he terminals 10 to 30 each have the same components as in a general computer such as **an HDD (a storage device)**, a CPU (a processor), a keyboard and a mouse (input devices), and a monitor” (emphasis added). In some embodiments, the HDD may be the storage means. Thus, a person of ordinary skill in the art would readily appreciate, based on the present specification and figures, what structure, material or acts may perform the recited function.

The Office Action also stated on page 3 that “Examiner also respectfully directs applicant to MPEP § 2106 discussing the questionable limiting effect of statements of intended use[e] (i.e. certain ‘for’ clauses) and suggests that positive recitation of how a structure is configured (‘i.e. a storage device configured to . . .’) in lieu of a statement of intended use has the potential to remedy issues of indefiniteness” (all errors in original). However, per the above, the means recited in the claims are clearly supported in the present specification and figures. Further, features following “means for” in a means-plus-function claims are *per se* not interpreted as intended use statements under U.S. law, and Applicants submit that the features of the means recited in the current claims are **not** statements of intended use. Indeed, means-plus-function claims would not be capable of

fulfilling their scope under 35 U.S.C. § 112, sixth paragraph, if the recitations of “for” in means-plus-function claims were interpreted to be statements of intended use.

Accordingly, it is respectfully submitted that the rejection is overcome and respectfully requested that the rejection be withdrawn.

### **Rejection under 35 U.S.C. § 101**

Claims 1-7 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Specifically, the Office Action stated on pages 3 and 4 that “[w]hen given their broadest reasonable meaning, these ‘means for’ read entirely on software. Software not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer”. Applicants note that claim 5 has been previously cancelled and thus, the rejection of claim 5 is moot. With respect to claims 1-4, 6 and 7, the preamble of independent claim 1 has been amended to recite:

An order management system embodied on a computer-readable storage medium for managing orders of resources for production of products, the order management system configured to control by a computer having an input device and an image displaying device, comprising:

As amended, the order management system is explicitly embodied on a computer-readable medium and controls a computer.

Accordingly, it is respectfully submitted that the rejection is overcome and respectfully requested that the rejection be withdrawn.

### **Rejection under 35 U.S.C. § 102**

Claims 1-7 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Tamaki et al. (U.S. Patent No. 6,226,561). Applicants note that claim 5 was previously cancelled and thus, the rejection of claim 5 is moot. With respect to claims 1-4, 6 and 7, the Office Action took the position on pages 4-8 that Tamaki et al. discloses all of the features of the rejected claims. Applicants respectfully traverse the rejection. reconsideration of the claims is respectfully requested.

Independent claim 1, from which claims 2-4, 6 and 7 depend, recites an order management system embodied on a computer-readable storage medium for managing orders of resources for production of products. The order management system is configured to control a computer having an input device and an image displaying device. The order management system includes storage means for storing an order management table indicating an order quantity and a required quantity of resources for each period among a plurality of periods and first ordering means for retrieving the required quantity of resources for each period from the storage means. The first ordering means is also configured to transmit first order information indicating the required quantity of resources for each period directly as an order quantity to an order received management terminal via a network. The order management system also includes required quantity determination means for retrieving, from the storage means, the order management table showing the order quantity of resources for each period indicated as the first order information transmitted by the first ordering means. The required quantity determination

means is also configured to display the order management table on the image displaying device.

The order management system further includes correction means for correcting the required quantities of resources in one or more periods included in a second predetermined period following a first predetermined period by decreasing the required quantities of resources in the second predetermined period following the first predetermined period when the required quantities of resources in one or more periods included in the first predetermined period are increased by a user's operation of the input device. The decreased amount of the required quantities corresponds with the increased amount of the required quantities. Additionally, the order management system includes second ordering means for determining a latest order quantity of resources in each period included in the first predetermined period to equal the required quantity of resources in each period included in the first period. The second ordering means is also configured to determine a latest order quantity of resources in each period included in the second predetermined period to equal to the required quantity of the resources in each period of the second predetermined period corrected by the correction means and to transmit a second order information indicating the latest order quantity of resources for each period included in each of the first predetermined period and the second predetermined period to the order received management terminal via a network.

As will be discussed below, Tamaki et al. fails to disclose or suggest all of the features of the presently pending claims.

Tamaki et al. generally discusses “a production planning system [allegedly] including the elimination of deficient parts, elimination of superfluous parts, adjustment of a production plan and adjustment of a parts acquisition plan” (column 1, lines 13-16).

[T]here is provided a production planning system in which deficient parts are calculated first of all and eliminated by cancelling a part of a production plan. Then, the whole truth of the superfluous parts is revealed, the products using the superfluous parts are searched for a proper product, and a production plan for the particular product is added as a new production plan. This series of procedure is executed to eliminate the superfluous parts.

(Column 2, lines 36-44, of Tamaki et al.).

Independent claim 1 recites, in part, “second ordering means for determining a latest order quantity of resources in each period included in the first predetermined period to equal the required quantity of resources in each period included in the first period, and for determining a latest order quantity of resources in each period included in the second predetermined period to equal to the required quantity of the resources in each period of the second predetermined period corrected by the correction means, and then transmitting a second order information indicating the latest order quantity of resources for each period included in each of the first predetermined period and the second predetermined period to the order received management terminal via a network.” The Office Action took the position on pages 5 and 6 that the parts acquisition system discussed in column 15, lines 14-30, of Tamaki et al. discloses these features. Applicants respectfully disagree.

Applicants believe that the Examiner may have taken the position that the “production plan information” (Fig. 4(a) of Tamaki et al.) and the “warehouse schedule information” (Fig. 4(b) of Tamaki et al.) that are stored in the data storage unit correspond to the “required quantity of resources” and “order quantity of resources” recited in claim 1. However, Applicants respectfully submit that these are not equivalent.

In some embodiments of the present invention, if the required quantity of resources is corrected in each period included in the “first predetermined period”, a latest order quantity is corrected to equal to the corrected required quantity. In Tamaki et al., even if it is assumed that the scheduled periods (t5)(t6) are regarded as being included in the first predetermined period of the present invention in which the production plan (such as the required quantity of resources in some embodiments) is corrected, in order to illustrate that the claimed invention is disclosed by Tamaki et al., Applicants submit that the warehouse schedule information (such as order quantity of resources in periods (t5) (t6)) must be corrected to be equivalent to the corrected production plan (see Fig. 6(A), elements (31) and (32), of Tamaki et al.).

However, in Tamaki et al., Applicants submit that although the production plan in periods (t5) (t6) is corrected from [6][7], the warehouse schedule information in periods (t5)(t6) remains [6] and is not corrected to [7] (see Figs. 6(B) and 7(A) of Tamaki et al.). Similarly, in some embodiments of the present invention, if the required quantity of resources is decreased in each period included in the “second predetermined period”, the latest order quantity is corrected to equal to the decreased required quantity.



In Tamaki et al., even if it is assumed that the scheduled periods (t9)(t10) are regarded as being included in the second predetermined period of the present invention, in which the production plan (such as the required quantity of resources in some embodiments) is decreased, in order to evidence that the present invention is disclosed by Tamaki et al., Applicants submit that the warehouse schedule information (such as the order quantity of resources in some embodiments) in periods (t9)(t10) must be corrected to equal to the decreased production plan (see Fig. 10(A), elements (41) and (42), of Tamaki et al.). However, in Tamaki et al., Applicants submit that although the production plan in periods (t9)(t10) is corrected to decrease from [6][5] to [5][4], the warehouse schedule information in periods (t9)(t10) remains [4][4] and is not corrected to equal [5][4] (see Figs. 10(B) and 11(A), of Tamaki et al.).

Independent claim 1 also recites, in part, “storage means for storing an order management table indicating an order quantity and a required quantity of resources for each period among a plurality of periods”. The Office Action alleged on page 4 that the data storage unit in Fig. 1, column 9, lines 29-35, and column 10, lines 30-50, of Tamaki et al. discloses these features. Applicants respectfully disagree.

The cited sections of Tamaki et al. discuss a “data storage unit 110” (see column 9, lines 31 and 32).

The data storage unit 110 includes storage areas including a production plan storage section 1 for storing the production planning information, a parts list storage section 2 for storing the parts list information providing a list of required parts, a parts stock storage section 4 indicating a stock of

parts, and a parts warehousing schedule storage section 5 for storing the information on the parts warehousing schedule.

(Column 10, lines 30-35, of Tamaki et al.). However, while the data storage unit of Tamaki et al. may store production planning information, parts list information, stock parts and parts warehousing schedule information, nothing is cited or found that discloses or suggests an order management table indicating an order quantity and a required quantity of resources for each period among a plurality of periods, as claimed. These details are simply absent from the cited sections of Tamaki et al. In order to make a *prima facie* rejection under 35 U.S.C. § 102, “[t]he identical invention must be shown in **as complete detail** as is contained in the ... claim.’ *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)” (MPEP § 2131, emphasis added). The mere fact that Tamaki et al. discusses a data storage unit is insufficient to anticipate the claims.

Independent claim 1 further recites, in part, “first ordering means for retrieving the required quantity of resources for each period from the storage means, and transmitting first order information indicating the required quantity of resources for each period directly as an order quantity to an order received management terminal via a network”. The Office Action alleged on page 4 that the production plan forming subsystem in column 14, lines 34-45, of Tamaki et al. disclose these features. Applicants respectfully disagree.

Tamaki et al. discusses that “[a]s shown in FIG. 1, the production plan forming subsystem 109 stores the first production plan in the production storage section 1 of the data storage unit 110 as an initial production plan (numeral 210 in FIG. 1)” (column 14, lines 39-42). The subsequent discussion in Tamaki et al. discusses that the production plan may be adjusted later. However, nothing is cited or found in Tamaki et al. that discloses or suggests that the production plan forming subsystem of Tamaki et al. retrieves a required quantity of resources for each period and transmits first order information indicating the required quantity of resources for each period directly as an order quantity to an order received management terminal via a network, as claimed. Per the above, the MPEP requires that the Office Action must establish that the cited art discloses each feature in as complete detail as claimed, and the Office Action has not done so here.

Additionally, independent claim 1 recites, in part, “required quantity determination means for retrieving, from the storage means, the order management table showing the order quantity of resources for each period indicated as the first order information transmitted by the first ordering means, and for displaying the order management table on the image displaying device”. The Office Action alleged on page 5 that the MRP control unit discussed in column 14, lines 48-64, of Tamaki et al. discloses these features. Applicants respectfully disagree.

The cited section of Tamaki et al. discusses that the MRP control unit may receive an initial production plan and parts list information and then calculate an amount of

material resources. However, nothing is cited or found in Tamaki et al. that discloses or suggests that the MRP control unit retrieves an order management table showing an order quantity of resources for each period, as claimed. In fact, time periods are not discussed in the cited section of Tamaki et al.

Independent claim 1 also recites, in part, “correction means for correcting the required quantities of resources in one or more periods included in a second predetermined period following a first predetermined period by decreasing the required quantities of resources in the second predetermined period following the first predetermined period when the required quantities of resources in one or more periods included in the first predetermined period are increased by a user’s operation of the input device, wherein the decreased amount of the required quantities corresponds with the increased amount of the required quantities”. The Office Action took the position on page 5 that the superfluous parts elimination unit discussed in column 11, lines 18-39, of Tamaki et al. discloses these features. Applicants respectfully disagree.

The cited section of Tamaki et al. discusses that:

[T]he superfluous parts elimination unit 9 includes a section for proposing a plurality of superfluous parts elimination means available for use, and a superfluous parts elimination means selector for selecting one of a plurality of the superfluous parts elimination means and reflecting the result of selection of the superfluous parts elimination means in the production plan storage section, the parts in-stock storage section or the parts warehousing schedule storage section. The superfluous parts elimination means proposal section can include a superfluous parts situation display section for displaying for each superfluous parts elimination means the change of the superfluous parts situation as a result

of selecting one of a plurality of the superfluous parts elimination means available.

(Column 11, lines 18-33). However, Tamaki et al. is silent as to the details with respect to the correction means recited in claim 1, such as “correcting the required quantities of resources in one or more periods included in a second predetermined period”. Rather, it appears that Tamaki et al. merely displays a change in superfluous parts based on the selected superfluous parts elimination means.

Claims 2-4, 6 and 7 depend from independent claim 1 and add further features thereto. Thus, the arguments above with respect to independent claim 1 also apply to the dependent claims

Per the above, Tamaki et al. fails to disclose or suggest all of the features of the above-rejected claims under 35 U.S.C. § 102(b). Accordingly, it is respectfully submitted that the rejection is overcome and respectfully requested that the rejection be withdrawn.

## **Conclusion**

For at least the reasons presented above, it is respectfully submitted that claims 1-4, 6 and 7, comprising all of the currently pending claims, patentably distinguish over the cited art. Accordingly, it is respectfully requested that the claims be allowed and the application be passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by

telephone, Applicants' undersigned representative at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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